

**To:** CN=Mary Thiesing/OU=R10/O=USEPA/C=US@EPA[]  
**Cc:** CN=Phil North/OU=R10/O=USEPA/C=US@EPA[]  
**From:** CN=Patricia McGrath/OU=R10/O=USEPA/C=US  
**Sent:** Sat 8/7/2010 5:18:30 AM  
**Subject:** Re: Fw: reporter's questions relating to Section 404(c) and the Pebble project in Alaska  
<http://www.epa.gov/owow/wetlands/pdf/404c.pdf/>  
<http://www.epa.gov/owow/wetlands/regs/>  
<http://www.epa.gov/owow/wetlands/>

Mary Ann and Phil -

## Ex. 5 - Deliberative

thanks - Patty

-----Mary Thiesing/R10/USEPA/US wrote: -----

To: Linda Anderson-Carnahan/R10/USEPA/US@EPA, Cara Steiner-Riley/R10/USEPA/US@EPA, Christopher Hunter/DC/USEPA/US@EPA, David Allnutt/R10/USEPA/US@EPA, Enesta Jones/DC/USEPA/US@EPA, Marcia Combes/R10/USEPA/US@EPA, Mark Macintyre/R10/USEPA/US@EPA, Mary Thiesing/R10/USEPA/US@EPA, Michael Szerlog/R10/USEPA/US@EPA, Michelle Pirzadeh/R10/USEPA/US@EPA, Mike Bussell/R10/USEPA/US@EPA, Patricia McGrath/R10/USEPA/US@EPA, Phil North/R10/USEPA/US@EPA, Richard Parkin/R10/USEPA/US@EPA, Sally Thomas/R10/USEPA/US@EPA, Jeff Philip/R10/USEPA/US@EPA  
**From:** Mary Thiesing/R10/USEPA/US  
**Date:** 08/06/2010 03:45PM  
**Subject:** Fw: reporter's questions relating to Section 404(c) and the Pebble project in Alaska

Linda, and Patty,

## Ex. 5 - Deliberative

Mary Anne

----- Forwarded by Mary Thiesing/R10/USEPA/US on 08/06/2010 03:41 PM -----

**From:** Linda Anderson-Carnahan/R10/USEPA/US  
**To:**  
**Cc:** Cara Steiner-Riley/R10/USEPA/US@EPA, Christopher Hunter/DC/USEPA/US@EPA, David Allnutt/R10/USEPA/US@EPA, Enesta Jones/DC/USEPA/US@EPA, Marcia Combes/R10/USEPA/US@EPA, Mark Macintyre/R10/USEPA/US@EPA, Mary Thiesing/R10/USEPA/US@EPA, Michael Szerlog/R10/USEPA/US@EPA, Michelle Pirzadeh/R10/USEPA/US@EPA, Mike Bussell/R10/USEPA/US@EPA, Patricia McGrath/R10/USEPA/US@EPA, Phil North/R10/USEPA/US@EPA, Richard Parkin/R10/USEPA/US@EPA, Sally Thomas/R10/USEPA/US@EPA, Jeff Philip/R10/USEPA/US@EPA  
**Date:** 08/06/2010 03:35 PM  
**Subject:** Re: Fw: reporter's questions relating to Section 404(c) and the Pebble project in Alaska

## Ex. 5 - Deliberative

Linda Anderson-Carnahan---08/06/2010 02:52:07 PM---Going with 'less is more,' see my suggested edits below We need to be copying the OPA contact on thi

Mary Thiesing---08/06/2010 09:23:43 AM---Mark, I'll take a crack at this. Here are some responses to this reporter's questions:

\* Has this section of the Clean Water Act been used in Region 10 before? In Alaska? If so, for what projects?

Please see:

<http://www.epa.gov/owow/wetlands/pdf/404c.pdf/>

<http://www.epa.gov/owow/wetlands/regs/>

<http://www.epa.gov/owow/wetlands/>

\* What is the EPA administrator's role, if any? Does the administrator (Lisa Jackson) have to approve a notice of proposed determination? Has Lisa Jackson given instructions to Region 10 on how to proceed with the letter from the tribal groups?

## **Ex. 5 - Deliberative**

\* Are there any drawbacks for invoking 404c? If so, what are they? Has there ever been any prior discussion at EPA for using this provision in relation to Pebble or any other mining project?

## **Ex. 5 - Deliberative**

\* Has anyone in Alaska ever petitioned EPA to invoke 404c for a disposal site or is this the first time you are aware of it happening? EPA considered a section 404(c) action in Alaska in 1991 and issued a proposed determination, but was able to work out protective conditions for the action in question, so no section 404(c) determination was ever made final.

\* On a related note, did EPA weigh in using 404c with the Conoco Phillips CD-5 Alpine Satellite project? Some nonprofits said today that didn't happen though it was mentioned by Congressman Don Young in a press release.

## **Ex. 5 - Deliberative**

## **Ex. 5 - Deliberative**

\* What is involved in an adverse effects analysis - what sort of considerations are weighed - before a noticed of proposed determination is filed?

## **Ex. 5 - Deliberative**

\* If someone petitions EPA to invoke 404c, does EPA have to respond to that request in a certain amount of time? If so, how long?

# **Ex. 5 - Deliberative**

\* How often - if ever - has EPA used 404c before the permitting process actually began on a 404 permit?

## **Ex. 5 - Deliberative**

----- Forwarded by Mary Thiesing/R10/USEPA/US on 08/06/2010 07:40 AM -----

From: Michael Szerlog/R10/USEPA/US  
To: Phil North/R10/USEPA/US, "Mary Anne Thiesing" <Thiesing.mary@epa.gov>, "Patricia McGrath" <Mcgrath.Patricia@epamail.epa.gov>, "Linda Anderson-Carnahan" <Anderson-Carnahan.Linda@epamail.epa.gov>  
Cc: "Christopher Hunter" <Hunter.Christopher@epamail.epa.gov>, "Brian Frazer" <Frazer.Brian@epamail.epa.gov>  
Date: 08/05/2010 06:39 PM  
Subject: Fw: questions relating to Section 404(c) and the Pebble project in Alaska

Phil and Mary Anne,  
Could you help with this request? We may need HQ help on some of these questions. Coordinate with Patty and Mark. Thanks in advance.  
Thanks  
Michael Szerlog, Manager  
Aquatic Resources Unit  
US EPA (206) 553 - 0279

From: Mark Macintyre  
Sent: 08/05/2010 08:48 PM EDT  
To: Michael Szerlog; Marcia Combes; Greg Kellogg  
Subject: Fw: questions relating to Section 404(c) and the Pebble project in Alaska

FYI....MM  
Sent by EPA Wireless E-Mail Services

From: "Bluemink, Elizabeth" [EBluemink@adn.com]  
Sent: 08/05/2010 04:35 PM PST  
To: Patricia McGrath; Mark Macintyre; Anthony Brown; Dennis McLerran  
Cc: Enesta Jones  
Subject: questions relating to Section 404(c) and the Pebble project in Alaska

Hi Patti, Dennis and others:

I am working on a story for Sunday's paper about the request from Bristol Bay region groups for EPA to invoke 404c on the Nushagak and Mulchatna drainages.

Unfortunately I hurried home sick today but am still needing to finish reporting before the week is over. I am not working on Friday so I have to finish the story on Saturday. Here are some questions that I hope someone from EPA can assist me with while I am out of the office. Since I'm not working, an e-mail response is preferable but I'm putting my cell phone # in this message. I'll cc my questions to the public affairs office in case Patti is not working tomorrow or if the questions need to go to someone else at EPA. I'm including the DC press office because ONE or TWO of my questions relates to EPA HQ/Lisa Jackson.

- \* Has this section of the Clean Water Act been used in Region 10 before? In Alaska? If so, for what projects?
- \* What is the EPA administrator's role, if any? Does the administrator (Lisa Jackson) have to approve a notice of proposed determination? Has Lisa Jackson given instructions to Region 10 on how to proceed with the letter from the tribal groups?
- \* Are there any drawbacks for invoking 404c? If so, what are they? Has there ever been any prior discussion at EPA for using this provision in relation to Pebble or any other mining project?
- \* Has anyone in Alaska ever petitioned EPA to invoke 404c for a disposal site or is this the first time you are aware of it happening?
- \* On a related note, did EPA weigh in using 404c with the Conoco Phillips CD-5 Alpine Satellite project? Some nonprofits said today that didn't happen though it was mentioned by Congressman Don Young in a press release.
- \* What is involved in an adverse effects analysis - what sort of considerations are weighed - before a notice of proposed determination is filed?
- \* If someone petitions EPA to invoke 404c, does EPA have to respond to that request in a certain amount of time? If so, how long?
- \* How often - if ever - has EPA used 404c before the permitting process actually began on a 404 permit?

Thanks very much! If you need to reach me Friday, my cell is 907-952-3956.

Elizabeth Bluemink  
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